

STATEMENT OF LINDA FISHER
DEPUTY ADMINISTRATOR
U.S. ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE SUBCOMMITTEE ON
ENVIRONMENT AND HAZARDOUS MATERIALS
COMMITTEE ON ENERGY AND COMMERCE
UNITED STATES HOUSE OF REPRESENTATIVES

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Good morning, Mr. Chairman, and members of the subcommittee. It is my pleasure to appear before you today to discuss brownfields legislation. This is my first opportunity to appear before the House Energy and Commerce Committee as Deputy Administrator of EPA. I look forward to working with the members of the committee on this and many other issues in the future. I commend Chairman Gillmor, Representative Pallone, and all of the members of the subcommittee for developing brownfields discussion drafts that seek to promote the cleanup and development of brownfield properties and remove the barriers preventing the successful assessment, cleanup and redevelopment of brownfields across this country. While the Administration has a policy on not taking a position on a legislative discussion draft, I am pleased to say that the Administration supports the direction of many of the provisions that are being developed in Chairman Gillmor's discussion draft and we look forward to the opportunity to support a bill as the committee completes its work. As Governor Whitman has stated, enacting brownfields legislation this year is an important priority for President Bush and this Administration and we are committed to working with Congress to achieve that goal.

As we continue a more thorough review of the draft, and the committee continues its deliberations and introduces a bill, we would appreciate the opportunity to work with Chairman

Gillmor, and other members, on legislative refinements that would be consistent with the President's principles and budget. EPA remains ready to work with all members of the Energy and Commerce Committee as we work for enactment of brownfields legislation this year.

Currently, EPA is working in partnership with States and local communities to promote the cleanup and development of brownfield properties. States are developing significant expertise in the cleanup and development of brownfield properties, and together with local communities, will continue to have the primary role.

Over the past few years, as EPA developed and implemented its brownfields program, we have seen that barriers may exist through uncertainty over Federal liability and the role of EPA authority in cases where a State has taken action. When a State approves a cleanup that is protective of human health and the environment, there should be limited circumstances where EPA would need to take further action. There should be a compelling reason for EPA to become involved in the cleanup. We do not want to stifle State cleanup programs and fail in our goal of removing barriers that prevent brownfields cleanup.

Brownfields cleanup is an important urban redevelopment tool that provides an alternative to development of greenfields. The Administration believes that brownfields legislation is important enough to be considered independently from other statutory reform efforts, such as Superfund. I know that some members of this subcommittee are interested in reforming Superfund and EPA remains ready to work with them, but I would continue to urge that Superfund issues not hold up brownfields legislation.

President Bush is committed to strengthen state and local brownfields programs based on the

following principles:

- ! Brownfields legislation should remove a significant hurdle to brownfields cleanup by providing redevelopers with protection from federal Superfund liability;
- ! Brownfields legislation should ensure that states have the authority and resources to run their own brownfields programs while ensuring those cleanups are protective of human health and the environment;
- ! Brownfields legislation should direct EPA to work with the States to ensure that they employ high, yet flexible cleanup standards, and allow EPA to step in to enforce those standards only when necessary;
- ! Brownfields legislation should streamline and expedite the process by which grants are given to states, and in turn to local communities, so that they have maximum flexibility to use the funds according to their unique needs;
- ! The federal government should focus additional research and development efforts on new cleanup technologies and techniques to clean up brownfields; and
- ! While not under the jurisdiction of this committee, the brownfields tax incentive should be made permanent. The incentive expires at the end of 2003. The Administration supports legislative efforts to make the tax incentive permanent, which is reflected in the President's FY 2002 budget.

The States and the U.S. Environmental Protection Agency have been at the forefront of encouraging the cleanup and economic redevelopment of brownfields. EPA has awarded more than 399 assessment pilots of up to \$200,000 each to states, Tribes, and local governments to assist them

with brownfields redevelopment. Grantees report that EPA funding supported assessments at over 2000 properties and helped leverage more than \$3.1 billion in economic development and generated more than 12,000 jobs. EPA's job training pilots have trained more than 640 people and put more than 480 to work. In addition, EPA has funded 127 revolving loan fund pilots, provided over \$90 million in funding for state programs, and worked with states to perform Targeted Brownfields Assessments at more than 570 properties.

However, much remains to be done to facilitate the rapid, high-quality assessment, cleanup and sustainable economic development in communities across the nation. With your help, this Administration is committed to providing the tools that communities need to address the problems posed by brownfield properties, and it is committed to encouraging redevelopment while fully protecting human health and the environment.

Chairman Gillmor's discussion draft, the Brownfields Revitalization and Environmental Restoration Act of 2001, is developing as a major step forward in encouraging the cleanup and development of contaminated brownfield properties. The draft authorizes grants and loan programs to identify, assess and clean up brownfields properties, and provides more flexibility to implement these programs.

The draft clarifies Superfund liability for contiguous property owners, prospective purchasers, and innocent landowners. While these provisions differ from similar provisions in S.350 and some previous legislation, we are prepared to discuss them with you and others as the committee continues development of a bill.

The real or perceived threat of federal liability can be a barrier to brownfields redevelopment.

The draft places clear limits on federal enforcement authority for sites cleaned up under a state response program. Furthermore, this legislation also recognizes the necessity of striking an appropriate balance between providing the finality needed to induce redevelopment and ensuring the ongoing protection of public health and the environment. The draft does this by maintaining a federal safety-net granting EPA authority to respond to real threats to human health or the environment when a state is unwilling or unable to do so.

The provisions that provide for a federal safety-net are more limited than those found in S.350. EPA is concerned that a brownfields bill not place too great a limit on EPA authority and the federal safety net. We would like to work with the committee on these provisions as the committee continues to develop a bill. Whatever approach Congress chooses, we at EPA will only exercise Agency authority under compelling circumstances – as demonstrated by the Agency’s history of never stepping in on its own at a brownfields site.

The Administration supports brownfields legislation that encourages the identification, assessment, cleanup, and redevelopment of a full range of contaminated brownfields properties by specifically authorizing a federal program for grants and loans to states, Tribes, and local governments. In addition, legislation should relieve EPA’s current brownfields program of unnecessary Superfund regulatory procedures for the Brownfields Cleanup Revolving Loan Fund, and provide for expedited grant funding of cleanup of contaminated properties.

Brownfields legislation that is consistent with the President’s principles should provide flexible grant funding to the states, local communities, and Tribes to support their brownfields programs in ways that will enhance the already impressive achievements of the 47 state programs that address brownfields

currently. According to a study by the *Northeast/Midwest Institute*, more than 16,000 sites have enrolled in state voluntary cleanup programs. States with emerging programs would benefit from resources and support that enable them to use creative approaches in encouraging protective assessment, clean up and redevelopment of property. States with established brownfields programs, such as Ohio and New Jersey, would benefit from support that enhances successful brownfields redevelopment work.

The Administration also supports funding for technical assistance, training, and technology to encourage the best methods and approaches to cleaning up brownfields. New tools that improve the ability to conduct protective cleanups while reducing cost can help promote the redevelopment of brownfields across the Nation. EPA would like to work with the committee to address these issues as the committee continues work on the draft.

Whether states and localities receive Environmental Protection Agency grants for assessment and cleanup, Housing and Urban Development grants for redevelopment, Economic Development Administration grants - or whether redevelopment is encouraged by the Federal Brownfields tax incentive - this Administration is committed to providing the tools necessary to address the problem of contaminated brownfields properties.

Thank you for the opportunity to appear before you today to discuss brownfields legislation. I look forward to working with you to achieve swift passage of a brownfields bill.

Mr. Chairman, I will be happy to answer any questions you or the committee members may have.